

EXHIBIT 2

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1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

3 - - - - - - - - - - - - - - - X
4 MOOG INC.,) 22-CV-187
Plaintiff)
vs.

5 Buffalo, New York
6 SKYRYSE, INC., et al) August 25, 2022
Defendant.
- - - - - - - - - X

7 **DISCOVERY HEARING**

8 **Proceeding held via Zoom for Government Platform**

All parties appeared remotely.

Transcribed from audio of Zoom for Government Platform

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10 TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JEREMIAH J. MCCARTHY
11 UNITED STATES MAGISTRATE JUDGE

12 FOR PLAINTIFF: SHEPPHARD MULLIN RICHTER & HAMPTON, LLP
13 BY: RENA ANDOH, ESQ.
LAI YIP, ESQ.

KAZIM A. NAQVI, ESQ.
TRAVIS ANDERSON, ESQ.
TYLER BAKER, ESQ.

-and-

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BY: ROBERT J. FLUSKEY, JR, ESQ.
PAULINE THECLA MUTO, ESQ.
REETUPARNA DUTTA, ESQ.
MELISSA SUBJECK, ESQ.

18 FOR DEFENDANT: LATHAM & WATKINS, LLP
19 BY: DOUGLAS E. LUMISH, ESQ.
GABRIEL S. GROSS, ESQ.
KELLEY STOREY, ESQ.
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2 FOR DEFENDANT
3 PILKINGTON/KIM: WINGET, SPADAFORA & SCHWARTZBERG, LLP
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P B O C E E D T N G

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12:33:14 10 MAGISTRATE JUDGE MCCARTHY: Good afternoon,
12:57:08 11 everyone, or good morning and good afternoon, I should
12:57:13 12 say.
12:57:15 13 MR. GROSS: Good morning.
12:57:15 14 MS. ANDOH: Good afternoon, your Honor.
12:57:20 15 MR. TRUITT: Good afternoon.
12:57:20 16 MAGISTRATE JUDGE MCCARTHY: Okay. Eric,
12:57:22 17 have we noted the appearances or go ahead and call the
12:57:25 18 case.
12:57:25 19 THE CLERK: I will, Judge. We're on the
12:57:27 20 record in civil proceeding 22-CV-187, Moog Inc v Skyryse
12:57:35 21 Inc., et al for oral argument. Present by video are
12:57:41 22 Rena Andoh, Kazim Naqvi, Lai Yip, Travis Anderson,
12:57:49 23 Pauline Muto, Tyler Baker, Robert Fluskey, Melissa
12:57:54 24 Subjeck and Reena Dutta, are for Plaintiff Moog.
12:57:58 25 For Defendant Skyryse are Douglas Lumish,

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12:58:35 2 Gabriel Gross, Ryan Banks, Arman Zahoory, Julianne
12:58:39 3 Osborne, Jerri Looney, Terrance Flynn, Cassandra Baloga
12:58:46 4 and Kelly Storey.
12:58:47 5 And for the individual Defendants are
12:58:49 6 Alexander Truitt, Anthony Green and Annabel Mirales.
12:58:56 7 The Honorable Jeremiah J. McCarthy
12:58:57 8 presiding.
12:58:58 9 MAGISTRATE JUDGE MCCARTHY: Okay. Welcome
12:59:00 10 again. And, as you know, we're going to discuss several
12:59:05 11 motions today, not all of the motions that are pending,
12:59:09 12 but the ones that I had indicated. And what I want to
12:59:13 13 do is segment the discussion. I want to begin with the
12:59:19 14 discussion of jurisdiction and venue, but solely for
12:59:26 15 purposes of the preliminary injunction motion, not for
12:59:31 16 purposes of the remainder of the case, because that
12:59:35 17 issue does not need to be decided right now. Next,
12:59:40 18 after that, I want to discuss the motions relative to
12:59:48 19 Pilkington and Kim's effort to claw back their devices
12:59:54 20 and Moog's motion for access to the devices. Following
13:00:00 21 that, we will discuss Moog's motion for clarification.
13:00:05 22 So, I assure you, I don't have total recall of
13:00:10 23 everything. But, I have spent a good deal of time
13:00:14 24 trying to get ready for today's argument. I have
13:00:17 25 reviewed the relevant papers in considerable detail and

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13:27:54 2 documents 33 and 25 both say for the purpose of the

13:27:58 3 stipulation and no other purpose. So, I respectfully

13:28:03 4 submit that Skyrise -- I'm sorry -- that Moog is arguing

13:28:07 5 that a stipulation to adjourn now suddenly puts the

13:28:11 6 entire proceeding within the Court's jurisdiction. I

13:28:15 7 would submit that is another purpose.

13:28:19 8 Second, document 33 says any and all

13:28:22 9 challenges to jurisdiction or venue in the Western

13:28:25 10 District of New York are expressly preserved. That is

13:28:28 11 what is happening with these Rule 12 motions. There are

13:28:31 12 challenges to the jurisdiction and venue of the Western

13:28:34 13 District of New York. Thank you.

13:28:35 14 MAGISTRATE JUDGE MCCARTHY: All right.

13:28:36 15 Thank you, counsel.

13:28:39 16 I've given a lot of thought to this and I

13:28:42 17 suppose, in one sense, which forum will hear the

13:28:52 18 preliminary injunction motion is not something that

13:28:56 19 needs to be decided now, because however you slice it,

13:29:01 20 it's probably a ways down the road. Nonetheless, to

13:29:05 21 avoid any confusion and to give the parties an

13:29:09 22 opportunity to seek review by Judge Vilardo, if they

13:29:14 23 wish, I'm going to tell you my thoughts and what I am

13:29:19 24 going to do on this issue and on the other issues we're

13:29:24 25 going to be discussing today, is, I will tell you what

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13:31:27 2 There would be no point to talking about scheduling a

13:31:31 3 preliminary injunction hearing. In fact, they did

13:31:37 4 schedule the preliminary injunction hearing subject to

13:31:40 5 the Court's availability. But, there would be no point

13:31:44 6 in talking about that if this were not the Court that

13:31:47 7 was going to conduct the hearing. That, in a nutshell,

13:31:51 8 is my reasoning. I think it's the only fair reading

13:31:59 9 that can be given to the two stipulations and orders,

13:32:03 10 and, therefore, I think that, irrespective of where the

13:32:06 11 rest of the case will be conducted, the preliminary

13:32:11 12 injunction hearing should take place in the Western

13:32:15 13 District of New York. I will elaborate on that in more

13:32:21 14 detail in my written decision. Having said that,

13:32:25 15 though, I want to offer a few other observations.

13:32:29 16 First, with respect to the remainder of the case, and

13:32:31 17 that is not something that I'm going to be deciding

13:32:33 18 today, but if and when that issue has to be decided,

13:32:40 19 even if there is personal jurisdiction over the

13:32:43 20 remainder of the case, and I don't say whether there is

13:32:47 21 or not, based on what I've seen, I think there is a

13:32:52 22 compelling case or argument to be made that the

13:32:55 23 remainder of the case should be transferred to the

13:32:59 24 Central District of California based on convenience of

13:33:03 25 the parties, convenience of witnesses, coupled with the

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13:33:06 2 fact that there is now an ongoing criminal investigation

13:33:11 3 in the Central District of California. Again, to be

13:33:14 4 clear, I'm not deciding that issue right now. That

13:33:17 5 might be affected by, you know, what occurs between now

13:33:20 6 and the time of the preliminary injunction hearing and

13:33:23 7 how familiar this Court has become with the issues;

13:33:26 8 vis-à-vis, court in the Central District of California.

13:33:31 9 I will just say that the parties should keep in mind the

13:33:35 10 possibility, at least, which I consider to be more than

13:33:38 11 a minimal possibility, that irrespective of where the

13:33:42 12 preliminary injunction is heard, the remainder of the

13:33:49 13 case may well be transferred to the Central District of

13:33:52 14 California. I also want to point out for Moog's

13:33:55 15 benefit, and I think, Mr. Gross, you alluded to this,

13:33:58 16 but we did a little checking on our own, and I don't say

13:34:02 17 this to shirk any responsibility, because I will not be

13:34:06 18 the one conducting the preliminary injunction hearing,

13:34:10 19 in any event, but in this district, in Buffalo, we have

13:34:15 20 two active district judges, Judge Vilardo and Judge

13:34:20 21 Sinatra. In the Central District of California -- we

13:34:22 22 also have, in fairness, we have two senior status

13:34:26 23 district judges, God bless them, Judge Arcara and Judge

13:34:31 24 Skretny, who are basically working full time. But by

13:34:35 25 contrast, the Central District of California has, I

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13:34:37 2 believe, 34 district judges. So, in terms of how
13:34:45 3 quickly a preliminary injunction hearing could be
13:34:48 4 scheduled, I think there is a good argument that you
13:34:50 5 might get to a hearing more quickly in the Central
13:34:55 6 District of California than you would here.
13:34:57 7 Nonetheless, I think there is a contractual basis for
13:35:01 8 holding the hearing here, and so that will be my ruling.
13:35:07 9 If Judge Vilardo wants to take a different view of it,
13:35:10 10 well, that certainly is his prerogative.

13:35:15 11 Let's move on now to the companion motions
13:35:20 12 of -- and just to be clear, for that reason, I am also
13:35:25 13 denying Skyryse's motion to submit a supplemental reply
13:35:31 14 brief, which is docket No. 247, I believe. That will
13:35:36 15 obviously be part of the record if somebody wants to
13:35:41 16 make further argument to Judge Vilardo and if he wants
13:35:44 17 to consider it, I presume he would give, at that point,
13:35:48 18 would give Moog an opportunity to reply to that. But
13:35:52 19 that would be his call.

13:35:55 20 Let's turn then to the -- the motions -- the
13:36:00 21 claw back motions and Moog's motion for access to the
13:36:04 22 individual Defendant's devices. And I'll hear from
13:36:09 23 whoever wants to be heard in that regard.

13:40:16 24 MR. FLUSKEY: Your Honor, I can begin on the
13:40:18 25 restoration, if that is acceptable to the Court.

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3 S/ Karen J. Clark, RPR

4 Official Court Reporter

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